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SENATE

REPORT
No. 97-321

PRESERVATION OF THE GEORGETOWN WATERFRONT

MARCH 11 (legislative day, FEBRUARY 22), 1982.—Ordered to be printed

Mr. MCCLURE, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany S. 901]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 901) to preserve and protect the Georgetown Waterfront for the recreational use of the public having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE OF THE MEASURE

The purpose of the bill is to authorize the Secretary of the Interior to acquire certain lands along the Georgetown Waterfront in the District of Columbia by donation, exchange or transfer only. The Secretary is authorized to establish the area as a unit of the National Park System after acquisition of the area is accomplished.

BACKGROUND AND NEED

Historic Georgetown is strategically located on the Potomac River in Washington, D.C. The town, first incorporated as a port city in 1789, predated establishment of the federal city by 2 years. Its history is inextricably linked to the Potomac and the Nation's capital.

Georgetown was the center of the social and diplomatic life of the District of Columbia in the early 19th century. It contains many buildings associated first with the colonial period, then with the federal period, and later with the canal town historical period. However, most of the surviving buildings postdate 1800.

In 1950 the Congress passed the Old Georgetown Act in recognition of the need to protect the town's architectural and historical character. The act authorizes regulation of the height and exterior

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design of buildings in the Georgetown Historic District. The historic district, including the waterfront, has been designated a national historic landmark and is on the Nataional Register of Historic Places. A nationally significant structure in the waterfront area is the Chesapeake and Ohio Canal, which is administered as a national historical park from Georgetown to Cumberland, Maryland. No historic structures remain south of K Street between Key Bridge and Rock Creek.

The Georgetown Waterfront is in a state of transition. The shoreline south of K Street is principally owned by the District of Columbia, which acquired over 9 acres of land between Key Bridge and 31st Street for construction of the Potomac River freeway. Plans for the freeway have now been abandoned, and the city is using the property on a temporary basis for storage, impounded cars, and as a parking lot. An additional 3 acres is used for public rights-of-way.

Since freeway right-of-way acquisition was not completed east of 31st Street, two tracts of land totaling about 6 acres remain in private ownership. A gravel and concrete manufacturing plant occupies one of these tracts; the other tract is used for lumber storage.

Rezoning of the Georgetown Waterfront in 1974 was the precursor to intense commercial and residential development. At least 10 projects are in the planning or construction phase between K and M Streets. Development is generally moving down from M Street toward the waterfront south of K Street. Current zoning would allow development of this land.

Increased pressures for development and an opportunity to dedicate city-owned lands for park purposes have made the Georgetown Waterfront a focus of recent efforts to reach a common agreement on its use and development.

The Department of the Interior has been involved in a long history of planning efforts on the Georgetown Waterfront area of Washington, D.C. A Memorandum of Agreement was signed by the Secretary of the Interior on July 13, 1979, between the District of Columbia Government, the private landowners and the Department.

The Agreement sets forth a plan under which the District of Columbia would donate its 12 acres of property to the Department of the Interior for use as a Waterfront Park. In addition, the developer would donate approximately 3 acres of adjoining land to the park and construct an approved facility for use by the U.S. Park Service. About 3.5 acres of land would remain in private ownership for mixed-use development subject to approval by appropriate agencies.

The current private owner, CSX Resources, Inc., is engaged in a joint venture (Georgetown Harbor Associates) with Western Development Corporation to build a commercial and residential development on the site in accordance with the agreement.

Pursuant to District of Columbia Law 2–144 (Historic Landmarks and District Protection Act) and the Old Georgetown Act (64 Stat. 903), after public hearings, the Commission on Fine Arts recommended denial of a building permit to the developer based on its view that the private land should be developed as a recreational space compatible with the open park setting of other lands adjoining the Potomac. Subsequently, in June, July and October of 1981 hearings

were held before the Mayor's Agent for District of Columbia Law 2–144, on issuance of the proposed construction permit to Georgetown Harbor Associates. The Mayor's Agent is required to issue the permit unless it is found "that the design of the building and the character of the historic district or historic landmark are incompatible." (D.C. Law 2–144, Sec. 8(f).) After hearing testimony from both proponents and opponents of the project, and considering the recommendation of the Commission on Fine Arts, the Mayor's Agent found as a conclusion of law, that the design of the building and the character of the historic district "are not incompatible." (Order of October 20, 1981). A new construction permit was issued by the District of Columbia Government on November 17, 1981. A petition for review of the decision to issue the permit is pending before the District of Columbia Court of Appeals.

S. 901, if enacted, could negate the agreement and subsequent actions taken under that agreement and institute instead a land exchange system which could result in an all park alternative.

Legislative History

Senator Hatfield introduced legislation in the 96th Congress (S. 1495) concerning the Georgetown Waterfront area. S. 1495 provided for a legislative taking of the Georgetown Waterfront area. A hearing on this measure on March 3, 1980 was held by the Subcommittee on Parks, Recreation and Renewable Resources. No further action was taken in the 96th Congress.

S. 901 was introduced on April 7, 1981. It was placed on the Committee agenda on June 15, 1981. No hearings have been held on S. 901 this Congress.

Committee Recommendations

The Senate Committee on Energy and Natural Resources in an open business session on November 19, 1981, by unanimous vote of a quorum present recommended that the Senate pass S. 901.

Costs and Budgetary Considerations

The following estimate of costs of this measure has been provided by the Congressional Budget Office.

U.S. Congress,
Congressional Budget Office,
Washington, D.C., November 20, 1981.

Hon. James A. McClure,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Dirksen Senate Office Building, Washington, D.C.

Dear Mr. Chairman: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed S. 901, a bill to preserve and protect the Georgetown Waterfront for the recreational use of the public, as ordered reported by the Senate Committee on Energy and Natural Resources, November 10, 1981.

The bill authorizes the Secretary of the Department of the Interior (DOI) to acquire, by donation, exchange, or transfer, lands and im-

provements comprising approximately 18 acres on the Georgetown waterfront along the Potomac River in Washington, D.C. The Secretary of the Interior is directed to promulgate and administer regulations to protect and preserve the area for recreational and other compatible purposes as part of the park system of the National Capital. Beginning in fiscal year 1983, such sums as are necessary to carry out the provisions of the bill are authorized to be appropriated.

The bill is intended to enable the DOI to acquire the Georgetown waterfront by means other than cash outlay. Approximately two-thirds of the area is either already owned by the federal government (a small portion) or by the District of Columbia. The Mayor of the District of Columbia supports creation of the proposed waterfront park and has expressed his willingness to transfer the District-owned land to the federal government. The remaining land is under private ownership and most likely will have to be acquired through exchange rather than by transfer or donation.

If an equal value exchange can be agreed on by the DOI and the private property owners, the costs to the federal government of acquiring the waterfront land will be those for appraisals, surveys, title opinions, title insurance, and development. If exchange of equal value property cannot be agreed on, the bill authorizes cash transactions to be made to equalize the property exchange, or, if the Secretary of the Interior deems it in the public interest, for exchange other than equal value to be made. The value of the property concerned has been variously estimated to be between $12 million and $40 million.

The acquisition and development of the proposed waterfront park could take nearly ten years. Based on information from the National Park Service (NPS), it is estimated that the exchange process could take three or four years to be completed. Meanwhile, surveys of surplus land for possible exchange will be conducted by the NPS and the General Services Administration, with support from contract appraisers and title companies, at an estimated cost of less than $1 million per year. Title insurance will be purchased for one-half of the value of all acquired land at a one-time cost probably less than $50,000. As the land is acquired, operation and maintenance costs will gradually increase to an eventual level of less than $1 million per year, based on NPS estimates. Development of the land, once procured, will take three to five years at a total estimated cost of approximately $8 million.

Should the Committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

RAYMOND C. SCHEPPACH
(For Alice M. Rivlin, Director).

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of the Rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 901.

The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities

on private individuals and business. S. 901 would preserve and protect the Georgetown Waterfront by exchange, donation or transfer of certain lands.

EXECUTIVE COMMUNICATIONS

On June 11, 1981 the Committee requested reports on S. 901 from the Department of the Interior and the Office of Management and Budget. The Committee received the following letter of March 9, 1982, from the Department in response to that request.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., March 9, 1982.

Hon. JAMES A. MCCLURE,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This responds to your request for the views of this Department on S. 901, a bill "To preserve and protect the Georgetown Waterfront for the recreational use of the public."

We would support enactment of S. 901 if it were amended as suggested below.

S. 901 would authorize the Secretary of the Interior, "in cooperation with other public agencies", to acquire by donation, exchange, or transfer lands of the Georgetown Waterfront, which is an area in Georgetown, in the District of Columbia, between K Street and the Potomac River, and between Rock Creek and a point 400 feet west of the Key Bridge. The areas acquired under the authority of S. 901 would be administered by the Secretary as a part of the National Park System. Exchanges authorized by this bill would be made on an equal value basis, but either the Secretary or the landowner would be authorized to make a cash payment to equalize the value of properties exchanged, and the Secretary would be authorized to make exchanges on an other than equal value basis if he determines such an exchange would be in the public interest.

In fairness to the present owners of the Georgetown Waterfront property, we believe that any authority for a land exchange should be for a limited period of time. We believe that a period of two years from the date of enactment of S. 901 would be a reasonable time in which to negotiate the land exchange to be authorized by S. 901, and we have enclosed language to provide such a limitation.

We note that no provision is made in S. 901 for development of the 18 acres comprising the Georgetown Waterfront as a park. The National Park Service estimates that the cost of such development would be $7.84 million, not including the costs of repairing the seawall and demolishing the existing industrial structures. We believe that given current economic conditions and budgetary constraints, we could not, at this time, support the additional financial burdens on the National Park Service which would result from development of this proposed new park land. This administration's highest priority for the National Park System is protection and maintenance of existing units of the System rather than addition of new units to the System.

There are two technical errors in the language of S. 901. On page 2, the word "exchange" in line 17 should be "exchanged", and the word "for" should be inserted after the word "made" in line 19.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

J. ROBINSON WEST,
Assistant Secretary.

Enclosure.

Subsection (c) of the first section of S. 901 is amended by adding the following at the end thereof:

> The Secretary and the Administrator of General Services shall as soon as practicable but no later than six months from the effective date of this Act, identify Federal properties which are surplus to the needs of the United States and which are approximately equal in value to the privately owned lands and improvements described in subsection (a). The Secretary shall offer to negotiate an exchange of such Federal properties with the owners of the private lands and improvements described in subsection (a). Notwithstanding any other provision of law, the Administrator of General Services shall make available to the Secretary for exchange purposes any such Federal properties which the owners agree to accept in exchange for the private lands and improvements described in subsection (a). If, on the expiration of two years from the effective date of this Act, an exchange has not been consummated or agreed upon for such privately owned lands and improvements, the authority to acquire the same by exchange under the provisions of this Act shall lapse: *Provided*, That nothing in this Act shall be deemed to prohibit the Secretary from acquiring and administering publicly owned lands and improvements for park purposes, or acquiring privately owned property by donation for such purposes, under any other provision of law.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the bill, S. 901, as reported.

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